Criminal Revision No.933 of 2001

Udel Singh ..... Revisionist

Vs.

State of Uttaranchal ..... Opp.Party.

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Hon.M.C.Jain,J.

Heard Sri Vinod Sharma, learned counsel for the revisionist.

The instant revision is sought to be filed against the judgment and order dated 24.09.2001 passed by the Ist. Addl. District and Sessions Judge, Haridwar dismissing the revisionist's appeal no. 31 of 2000 against the judgment and order dated 17.4.2000 passed by the second Addl. C.J.M., Haridwar in Crl. Case No. 470 of 1999 U/Ss 279/338 and 304-A,I.P.C. He stands convicted for the said offence. Three months imprisonment has been awarded u/s 279,I.P.C.; three months imprisonment u/s 338,I.P.C. and six months imprisonment u/s 304,I.P.C. All the sentences have been directed to run concurrently.

The revisionist was the driver of truck no. UHR-9888 and dashed it from behind against a cycle, driven by P.W.1 Subhash Chandra with another person Nathu Ram thereon. As a result, Nathu Ram died whereas P.W.1 Subhash Chandra. On appraisal of the evidence, the case of the prosecution was found proved, which ultimately resulted in the conviction of the revisionist as stated hereinabove.

The argument of the learned counsel for the revisionist is that he was not named in the F.I.R. However, it is to be noted that the revisionist was arrested the very next day of the incident. It was not his case that he was not driver of the truck in question and was not driving it at the relevant time i.e. on 1.3.1993 at 6.45 p.m. Even such a suggestion was not made to P.W.1 Subhash Chandra in his cross-examination from that side. He did not deny this fact in his statement u/s 313 Cr.P.C. either that he was not the driver of the truck in question at the relevant time. Instead, he had approached P.W.1 Subhash Chandra at his house for compromise. There was sufficient evidence to prove the guilt of the revisionist that actually it was he who was driving the truck in question rashly and negligently at the relevant time which resulted in the death of Nathu Ram and injuries to the complainant PW 1 Subhash Chandra. The finding of the trial Magistrate confirmed by the appellate Court is based on judicial appraisal of the evidence and attending circumstances. It goes without saying that revisional jurisdiction conferred on the High Court is not to be lightly exercised. In the instant case, one person was done to death and another received injuries owing to the rash and negligent driving of the truck by the revisionist. The sentences awarded to him are on lenient side. There

is no illegality, impropriety or incorrectness in the order assailed in this revision. The revision being devoid of merit is hereby dismissed.

(M.C.Jain,J.)

Dt.01.10.2001
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